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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,189	03/26/2004	Mark Grayson	062891.1216	8023
5073	7590	05/23/2005	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			EMDADI, KAMRAN	
			ART UNIT	PAPER NUMBER
			2667	

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/810,189	GRAYSON ET AL.	
	Examiner	Art Unit	
	Kamran Emdadi	2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3-26-04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6-9, 11-14, 16-22, 24, 26, 28-31, 33-36, 38-41 and 43 are rejected under 35 U.S.C. 102(e) as being anticipated by Forsl w (U.S. Patent No. 6,608,832).

Regarding claims 1, 7, 11, 28, 33, 38 and 43, Forsl w teaches a mobile communications network system that operates with multicast data services (see column 4, line 17 and figure 3). The system includes a mobile station (MS) that registers with a mobile communications system once an optimal bearer path is selected (see figure 4). The MS 102 is authenticated via an authentication server 132 (see figure 9). Content is delivered to the MS via the established bearer path (column 16, lines 54-65).

Regarding claim 6, Forsl w teaches, in addition to the above features described above with reference to claim 1, a memory for storing MS information (see column 16, lines 46-48), and a processor for handling the server functions, the processor being an inherent feature of a server.

Regarding claims 2 and 12, Forsl w teaches an enabler mobile portion of a MS (i.e. a Msid) used to establish an identity of the mobile (column 16, lines 45-50).

Regarding claims 3, 8, 13, 17, 19, 21, 30, 35 and 40, Forsl w teaches parameters (e.g. QoS parameters) associated with a bearer path used to receive data (see column 10, lines 2-6).

Regarding claims 4, 9, 14 and 31, 36 and 41, Forsl w teaches establishing a service level for the cell (see column 12, lines 35-44).

Regarding claims 16, 18 and 20, in addition to the above features described above with reference to claim 1, receiving an instruction at the MS to create a multicast service from an application server (see the GGSN set-up instruction in figure 10), and a PDP context established (see column 9, lines 10-13).

Regarding claims 22, 24, 26, 29, 34 and 39, in addition to the above features described above with reference to claim 1, activating a MGSN (see the GGSN set-up instruction in figure 10), and a PDP context established with the GGSN to start a session (see column 9, lines 10-13).

Claim Rejections - 35 USC   103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 10, 15, 23, 25, 27, 32, 37, 42 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forsl w in view of (U.S. Patent No. 6,608,832).

The Forsl w reference teaches all of the above disclosed features except for packet duplication and power control features. Billstr m teaches a mobile communications multicast network system that includes power control information provided by a base transceiver system (BTS) for controlling the power level of a mobile station (see column 18, lines 1-5). Also, a PD controller database is used to store parameters related to a MS and store duplicate data of all relevant data related to a MS (see column 10, lines 30-35).

Motivation to combine these two references is evident in the background portions of the respective specifications. For instance, Forsl w discloses a quick and efficient means for bearer path establishment for a MS in a packet switching cellular system (see column 7, lines 55-62). Similarly, Billstr m discloses the need for advancements in packet data services in cellular communications systems (see column 3, lines 45-50). Therefore, it would have been obvious at the time the invention was made to have combined these two references to arrive at the features recited in claims 5, 10, 15, 23, 25, 27, 32, 37, 42 and 44.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamran Emdadi whose telephone number is 571-272-6047. The examiner can normally be reached M-F between the hours of 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kamran Emdadi

May 16, 2005


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800 5/20/05